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June 17, 2022

**VIA ECF**

Hon. Judge Stewart D. Aaron  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street, Room 1970  
New York, NY 10007

**Re: *Carlos Alvarez Chicas et al. v. Kelco Construction, Inc. et al.***  
**Case No.: 1:21-cv-09014 (PAE) (SDA)**

Dear Judge Aaron:

We represent Defendants Kelco Construction, Inc., E.L.M. General Construction Corp., John Kelly, and Joseph Provenzano ("Defendants") in the above-referenced matter. In accordance with Your Honor's Order to Show Cause (Dkt. No. 45), Defendants submit the following response.

On or about May 26, 2022, Plaintiffs' counsel contacted the undersigned to inquire whether Defendants were amenable to consenting to the filing of a second amended complaint, which would include claims regarding a weighted average wage method for computing overtime pay. The undersigned stated it would be difficult to comment on a request to amend the complaint without first seeing the allegations. The same day, Plaintiffs' counsel advised that he would provide the proposed amendments. Furthermore, on June 3<sup>rd</sup>, following up on the conversation from the end of May, the undersigned explained to counsel that it was inefficient to meaningfully address the pending motion for leave with the open representation about another amended pleading. On June 4, 2022, Plaintiffs' counsel sent a copy of the proposed amended pleading. Defendants are still reviewing the changes and respectfully ask the Court to set a deadline of June 24, 2022 to either notify the Court of their consent to the filing of the Second Amended Complaint or to provide the explanation for opposition the amendment. We have conferred with counsel for Plaintiff who consents to the June 24, 2022 deadline.

Moreover, during the June 3<sup>rd</sup> communication, Defendants suggested that the parties engage in mediation to seek assistance in reaching a class wide resolution. Plaintiffs were amenable to the suggestion and in subsequent correspondence both sides proposed potential mediators. At this time, the parties need only confirm a mediator, and a date and time for the mediation.

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We thank the Court for its time and consideration.

Respectfully submitted,

/s/Eli Freedberg

Eli Freedberg

Cc: All Counsel of Record (via ECF)

ENDORSEMENT: Request GRANTED IN PART. No later than June 24, 2022, Defendants shall either notify the Court by letter filed to the ECF docket of their consent to the filing of the Second Amended Complaint or shall file their opposition to the pending motion to amend. SO ORDERED.

Dated: 6/18/2022

A handwritten signature in blue ink, appearing to read "Stewart D. Aaron".